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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,416	03/30/2004	Tetsuzo Ueda	43890-673	1264

7590 03/22/2006  
MCDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER

CRANE, SARA W

ART UNIT PAPER NUMBER

2811

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an AlN film having 4H-polytype, does not reasonably provide enablement for BInAlGaN. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims.

See reasons of record in the Office action of 14 December 2005. Applicant responds that "the consecutive 4H-polytype BInAlGaN growth is well-known in the art for any alloy composition as long as the lattice mismatch is relatively small." There is no evidence to support this statement in the file. (Attorney arguments are not evidence.) Applicant needs to submit some sort of evidence to support the statement - a reference teaching or a declaration, for example.

(Also, if this growth is well-known, why would these claims be patentable to Applicant?)

Claims 6-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

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See reasons of record in the previous Office action. Applicant has submitted arguments in response to this rejection, relying on the reference teaching of N. Kuroda et al. Examiner cannot find this reference in the file, and it doesn't seem to be on any of the 1449 forms submitted by Applicant. If this reference is to be relied upon for enablement, a copy should be made of record. As noted above, attorney arguments are not evidence.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Crane, whose telephone number is (571) 272-1652.

The supervisor for Art Unit 2811, Eddie Lee can be reached on (571) 272-1732. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sara W. Crane  
Primary Examiner  
Art Unit 2811